

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

August 25, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 25, 2005, at 1:45 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair; Harold Warner Jr., Vice-Chair; James Barfield; Darrell Downing; John W. McKay Jr.; Bill Johnson (in @ 1:46); Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Bud Hentzen; Ronald Marnell and Hoyt Hillman. Gary K. Gibbs and Denise Sherman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of August 11, 2005 meeting minutes.

MOTION: To approve the August 11, 2005 meeting minutes.

WARNER moved, **DOWNING** seconded the motion, and it carried (11-0).

2. Redevelopment Project Plan, Power CDC Grocery Store Project, presentation by Allen Bell, Director of Economic Development City of Wichita

Background: Pursuant to K.S.A. 12-1772 *et seq.*, each redevelopment project plan undertaken by the City must be prepared in consultation with the planning commission. Accordingly, the MAPC has a responsibility to review the proposed Redevelopment Project Plan and make a determination of consistency with the Wichita-Sedgwick County Comprehensive Plan.

The City is considering the adoption of the Redevelopment Project Plan - POWER CDC Grocery Store Project. Adoption of this Plan will allow the City to finance eligible Project costs associated with the redevelopment of this property. Specifically, the City will purchase land, assist with site preparation work and provide public amenities in the Project.

The Project area itself consists of eight parcels located on the north side of 13th Street between Grove and Polar. Land uses in the Project area consist of vacant land, residential housing and commercial buildings. Redevelopment of the area will include demolition of all existing structures and the construction of a 15,000 square foot commercial retail building, an on-site parking lot with approximately 80 parking spaces, sidewalks, driveways and landscaping. The new building will be owned by POWER CDC and Community Developers LLC, with construction costs estimated at \$2,070,000. They will lease the facility to BR&D Inc. who will operate it as a Sav-A-Lot grocery store that will provide goods and services to a severely under-served inner city area of central northeast Wichita.

The City will provide public funding, including tax increment financing (TIF), HUD Section 108 loan and CDBG funding, to finance a portion of the costs of acquiring land, demolishing existing buildings and developing the grocery store facility. The City has entered into a development agreement with POWER CDC and Community Developers LLC, which will provide for turnkey construction of the public amenities on behalf of the City. It is the City's intent to use the property tax abatement (TIF) generated by the Project area to pay the debt service on general obligation bonds issued by the City to finance its contribution to the Project.

The total assessed January 1, 2007 value of the Project TIF District is estimated to be \$350,000 (compared to the original 1997 assessed value of \$11,567), resulting in a captured assessed value of \$338,433 for the TIF District. According to the City of Wichita Economic Development Office, the comprehensive financial feasibility study done as part of this Redevelopment Project Plan shows that the benefits derived from the project will exceed the costs, and that the income derived there from will be sufficient to pay for the necessary project costs.

Analysis: The proposed Project Plan is clearly consistent with the Wichita-Sedgwick County Comprehensive Plan. This area of central northeast Wichita has been identified in the Comprehensive Plan as a 'Re-establishment Area' needing the full range of re-investment incentives that are available from the City. Plan Strategy XI.C8 further states the need to "Assist in revitalization of neighborhood shopping facilities in older neighborhoods, through technical assistance and financial incentives for rehabilitation and selected redevelopment projects."

The **Central Northeast Area Plan Update** adopted by the MAPC on August 11, 2005 as an element of the Wichita-Sedgwick County Comprehensive Plan encompasses the Northeast District Redevelopment Project Plan site. The Area Plan Update contains two priorities and associated implementation strategies to "5. Enhance More Neighborhood-Serving Retail and Personal Services" and "6. Retain and attract New Businesses and Jobs". The intersection of 13th Street and Grove is also specifically identified as a target area for these initiatives.

Recommendation: That the Metropolitan Area Planning Commission pass a resolution finding the proposed Redevelopment Project Plan - POWER CDC Grocery Store Project to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

Allen Bell Economic Administrator for the City of Wichita – Presents Plan and the boundaries. The grocery store operator is from Pittsburgh, KS, and will operate a grocery store under a franchise in the name of Sav-A-Lot, that is a St. Louis-based chain of

grocery stores. James Arbertha is here today and he is the President of POWER CDC and can answer questions that I can't about the grocery store itself. I will be happy to answer your questions.

DUNLAP The finding that we are looking for today is to find that it is in compliance with the Comprehensive Plan and that allows the project to proceed.

SCHLEGEL Dave, I noticed that the way that the recommendation in your report is phrased it calls for passing a resolution?

BISHOP It is in the back of the packet.

BARBER There should be a resolution in your packet from the Economic Development office.

DUNLAP So that is what we are doing is passing this resolution?

BISHOP The very last line on the first page says it is consistent with the Comprehensive General Plan for the development of the City of Wichita.

MARNELL So we should make that as a resolution?

SCHLEGEL Adopt the resolution.

DUNLAP The motion is to adopt the resolution.

MOTION: That the Metropolitan Area Planning Commission adopts a resolution finding the proposed Redevelopment Project Plan – POWER CDC Grocery Store Project to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-0).

❖ **SUBDIVISION ITEMS**

3. Consideration of Subdivision Committee recommendations from the meeting of August 18, 2005.

3-1. **SUB 2005-62: One-Step Final Plat – THE TIMBERLANDS ADDITION**, located north of Harry and west of 127th Street East.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The sewer lateral for the house on Lot 2, Block 2 needs to be relocated from Timberlands. Since the west side of lots 3, 4 & 5, Block 2 are served by sanitary sewer, a short sewer main extension will be needed for the existing house on lot 2 to keep the lateral from being located under pavement.

B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.

C. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering has received a drainage plan. The drainage easement should be shown as floodway reserve and referenced in plat's text.**

The drainage plan has been approved by County Engineering.

D. **County/Traffic Engineering** needs to comment on the access controls. The plat denotes two openings along 127th St. East in addition to a street opening. **County/Traffic Engineering have approved one opening along 127th St. East for Lot 1, Block 2.**

E. Although the plat denotes a 60-ft street dedication along 127th St. E, the Applicant requests a 50-ft right-of-way. The Access Management Regulations requires a 60-ft half-street right-of-way width along urban arterials.

The Subdivision Committee has required a 60-ft right-of-way along 127th St. E.

F. The County has required annexation of all of 127th St. East to City of Wichita.

G. **County Surveying** advises that the "Common Cor., Woodland Lakes Estates Third Addition/ Woodland Lakes Estates Fourth Addition" is actually 3 feet South of where arrow points.

H. The final plat tracing needs to denote right-of-way lines of 70 feet to the West.

- I. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- J. The Applicant has platted a 20-ft building setback along Lots 8-10, Block 2 which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- K. The Applicant is advised that if platted, the building setbacks along 127th St. East must be 85 feet from the centerline of the street to conform with the Zoning setback standard for County section line roads.
- L. The building setback along the South line of Lot 2, Block 2 needs corrected
- M. GIS needs to comment on the plat's street names. Timberlands and Timberlands Ct needs revised to Zimmerly and Zimmerly Ct.
- N. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 7, Block 2. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL At the Subdivision meeting, the applicant objected to the 60-foot street right-of-way dedication along 127th Street East. The applicant instead proposed a 50-foot half street right-of-way along 127th Street East.

GENE RATH, MKEC At the Subdivision meeting we did request that the right-of-way requirement of staff of 60-foot not be approved, and instead leave it at 50-foot, which it is today and it is on farther north along almost the entire mile on the west side. Some of the properties on the east side are being platted and developed, so I think right-of-way varies along the east side.

We ask for several reasons. One reason, it is 50-foot pretty consistent on the west side today. The current traffic volumes, I think, are in the 1,000 vehicles a day range or less which is less than some residential streets in some neighborhoods, and certainly not to the point of needing a four to five lane roadway.

Planning staff projected at most that it would have 10,000 cars a day in 2030, and I think that is just on the cuff on going from three to four lane roadway, neither of which would require 60-foot of half-street right-of-way. The future Kellogg right-of-way concept contemplates that 127th Street East would be a two-lane, two-way roadway. Also, at Kellogg or just south of Kellogg it would curve and be two-lane, two-way back to the west to Zelta or there would most likely be a traffic signal. Again, it would be one-lane each way. It is not proposed to have a future frontage road onto the east or any kind of an overpass over Kellogg. In my opinion, with the

concept you will not see the kind of traffic volumes that are going to warrant roadway widths that requires 60-foot of half-street right-of-way.

I understand staff's position that you start making exceptions then you are in the process of making exception or request for exceptions all the time but I think this is a unique or different case. You have a mile line road. It is an arterial road; but basically it is a dead end road at Kellogg and is going to almost remain a dead end road there.

There are also trees there in front of the owner's house that is the plattor's and he doesn't want to see those trees dedicated to the public and in jeopardy of being taken down.

I realize you may end up voting for it and if you are leaning that way, I would ask that you go to a contingent right-of-way or a contingent sidewalk and utility easement such that if the City ever widens it, and if they need it for sidewalk and utilities then it would be a contingent easement which would give the City the ability to use that property for sidewalk and utilities in the future, although, my preference is to leave it at 50-foot of half-street right-of-way.

MOTION: Approve subject to 50-foot right-of-way based on the unique situation and the explanation by the engineer representing the applicant.

MITCHELL moved, **HILLMAN** seconded.

MARNELL Does that include the contingent dedication?

MITCHELL No, it does not.

HILLMAN Can I add a friendly amendment that it include the contingent dedication?

DUNLAP You can ask the motion maker to amend that way.

MITCHELL I do not want to include the contingent dedication.

DUNLAP Commissioner Hillman, your option is to make a substitute motion.

SUBSTITUTE MOTION: Approve with a 50-foot right-of-way, adding the contingent dedication so that in the future if they need to put in sidewalk or utilities that will be available.

HILLMAN moved, **BARFIELD** seconded.

HENTZEN They are asking for a contingent easement not a contingent dedication?

DUNLAP Is that what the substitute motion was?

HILLMAN That is correct.

BARFIELD I agree.

AMENDED SUBSTITUTE MOTION: Approve with a 50-foot right-of-way, adding the contingent easement so that in the future if they need to put in sidewalk or utilities that will be available.

BISHOP I believe that we have had at least one application, to make some changes at the corner of 127th Street East and Kellogg, and I think that the substitute motion allows some fair flexibility with further development that may happen in that area, while at the same time preserving the tree row and the two-lane configuration at this time.

MITCHELL The contingency is that the easement would be exercised at the City's discretion, and I don't think that protects anything outside of that 50-ft.

BISHOP I am going to assume that the City's discretion would be based on need depending on what further developments happen there. We have some choices we can make about those further developments, and if the 50-foot is approved that is going to have an impact on choices that I would make about future developments in that area. But, at least the 50-foot with the contingent easement allows a bit more flexibility.

MARNELL I am going to oppose the substitute motion. If the City of Wichita at some point needs that land, I would like to see them purchase that land from a landowner and not take it through this type of process. I know this will make Joe Lang cringe when I call it a "taking" but for them to up and take land without paying for it; I know I wasn't raised in Sedgwick County but where I was raised they called that stealing. But here they call it "taking" and a proper "taking" but I will have to disagree on that.

SUBSTITUTE MOTION fails VOTE 4-8.
(DUNLAP, WARNER, MARNELL, MITCHELL, HENTZEN, ALDRICH, MCKAY, JOHNSON opposed.)

ORIGINAL MOTION carries VOTE 10-2. (DOWNING and BARFIELD opposed)

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. Water plans need to be approved by City Water Department.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved. An off-site drainage easement is needed.**
- D. Sedgwick County Public Works recommends Maple be annexed.
- E. Traffic Engineering needs to comment on access controls. **Complete access control is requested for the east side of Fawnwood adjacent to Maple Hill Addition. Complete access control is needed along Taft.**
Access control has been platted as requested.
- F. The plat includes the vacation of the west half of City View. The Applicant shall contact the adjoining landowner requesting that a vacation request be submitted for the east half of this street. The standard language regarding vacation statutes need to be referenced on the plat.
- G. The plat has created an off-site stub for Taft north of Lot 45, Block G. The Applicant shall contact the adjoining landowner requesting that a vacation request be submitted for this segment of Taft.
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. Since Reserve E includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future. Department of Environmental Health also advises of the need for plan review prior to licensing of the pool.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. GIS needs to comment on the plat's street names. **Valley Hi Cir needs revised to Valley Hi Ct adjoining Lots 18-28, Block G. Moscelyn Cir needs revised to Moscelyn Ct adjoining Lots 5-7, Block A. Moscelyn adjoining Lots 7-10, Block B needs revised to Fawnwood. Valley Hi Rd Cir needs revised to Valley Hi Cir.**
- N. City Fire Department needs to comment on the street length of City View Ct (1,450 feet) adjoining Block C. The Subdivision Regulations limit urban cul-de-sacs to 800 feet in length unless a second point of access is proposed. **City Fire Department requests that the emergency access easement connecting City View Ct with Fawnwood be replaced with a 64-ft street right-of-way.**

The Subdivision Committee approved an emergency easement. The emergency access easement shall be established by separate instrument. The text of the instrument shall indicate the type of driving surface to be installed and address installation and maintenance. Standard gating and signing are required per City Fire Department standards. **The applicant shall meet with City Fire Department to discuss method of construction of the emergency access easement.**
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- Y. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

DUNLAP moved, **WARNER** seconded the motion, and it carried (11-0-1).
(MCKAY abstains)

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- 3-3. **SUB 2005-85: One-Step Final Plat -- AUBURN HILLS COMMERCIAL FOURTH ADDITION**, located east of 135th Street East and on the south side of Maple.

DUNLAP Staff has asked that we defer that Item until next the meeting so that it can follow the zoning.

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- 3-3A. **SUB 2005-78: Final Portion of Overall Preliminary Plat -- FALCON FALLS THIRD ADDITION**, located on the north side of 45th Street North and on the west side of Hillside.

NOTE: This final plat consists of the south and east portion of the overall preliminary plat (Falcon Falls 2nd Addition) and represents the second phase of development.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. County Engineering has noted that a minimum pad elevation of 1347 should be placed on Lot 8, Block A. City Engineering requests a letter from Army Corps of Engineers prior to plat consideration by City Council.
- D. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- E. The platlor's text reference to pedestrian access easements to Reserve B may be deleted.
- F. County Surveying advises that an onsite benchmark is needed and datum used.
- G. County Engineering has requested a guarantee for a right turn decel lane into Marble Falls on 45th St. North.
- H. The note on both pages of the plat should read: No building permits are to be issued for Lots 5-9, 13, 14, Block A, 8,9,16-25, Block B, 17, 31, 35-39, 43-49, Block C, 6-9, Block D, 2-11, 16-18, Block E, within Falcon Falls 3rd Addition unless the lowest

floor including the basement can be constructed at least one foot above the base flood elevation or unless the City of Wichita, Kansas has received a letter of map revision from the Federal Emergency Management Agency. **A restrictive covenant shall be recorded referencing this limitation on lot development.**

- I. The north end and the south end of 50' utility easement in Reserve C need to be located.
- J. Complete access control to Reserve C from Hillside and 45th St. North needs to be platted. Complete access control to Reserve B from 45th St. North needs to be platted.
- K. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- L. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- M. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- N. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- O. **GIS** needs to comment on the plat's street names. **Street names are approved.**
- P. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the City.
- Q. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- R. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- S. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy has requested additional easements.**

- BB. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: Approve.

DUNLAP moved, **WARNER** seconded, and it carried (12-0).

- 3-4. **DED 2005-23: Dedication of Access Control and DED 2005-24: Dedication of Street Right-of-Way**, for property located at the northwest corner of Central and Gilda.

APPLICANT: Kelley and Coleman, Inc., c/o Steve Kelley, 1218 Northshore Ct., Wichita, KS 67212

AGENT/SURVEYOR: Terry Smythe, Baughman Company, P.A., 315 Ellis, Wichita, KS 67211

LEGAL DESCRIPTION: **A)** Lot 5, Block C, West Central Gardens; and **B)** The south ten feet of Lot 5, Block C, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: **A)** Complete access control, except for one opening, along Central Avenue; and **B)** an additional ten feet of street right-of-way along Central Avenue. Both Dedications are requirements of a zoning case (ZON 2005-13).

STAFF RECOMMENDATION: Accept the Dedications.

MARNELL I recall at the time that we did that zoning case that we approved the zoning without the dedication, and I think the applicant was opposed to it and that the MAPC approved the zoning without the dedication.

STRAHL I was told that the City Council overturned the MAPC recommendation.

MARNELL What happens if we did not approve this dedication today?

MILLER The zoning would not be enacted.

SCHLEGEL You would only be hurting the applicant if you deny the dedication.

MARNELL This would be another case of the City using their power of the many against the individual landowner to confiscate land?

SCHLEGEL I have no comment.

ALDRICH Neil, it was your understanding that the City Council did override that?

STRAHL That is correct.

ALDRICH Staff was going to check on that to be sure the last time we discussed it, has that ever been verified?

WARNER Why does it have to come back here if the City Council overturned it?

MILLER Dedications go through the Subdivision Committee, and through MAPC and then onto to the Governing Body for acceptance. This has nothing to do with the zoning change. It is just that the applicant is complying with the conditions of approval of the zoning change.

TERRY SMYTHE, BAUGHMAN It is my recollection during the zoning of that property, we agreed to, and the MAPC passed access control to Central except for one opening, and that was the existing opening on the west side of the property. I think that is what this is. This is a dedication of access control, except for one opening.

MARNELL It says on the staff report, "Dedication of Access Control **AND** Dedication of street right-of-way". Is that incorrect? Would it be fair to say that you have changed your opinion and you want to now give that land to the City of Wichita?

SMYTHE I have not talked to the owner since the zoning but at that time he was against the dedication of the street right-of-way, but he was ok with the dedication of the access control except one opening. So he wants the one opening to Central but he wasn't willing at that time to give up the right-of-way because of the bridge abutments I believe.

MARNELL This is land being given away or "taking". It is not just the access?

SCHLEGEL It is the acceptance of the dedication being offered by the applicant in order to fulfill a condition of approval of zoning imposed by the City Council.

MITCHELL One access control and one right-of-way.

DUNLAP What are our options?

SCHLEGEL You can approve as presented or you can recommend that it not be approved and then it goes onto the City Council with your recommendation. Final disposition is by the City Council

MCKAY But the zoning is subject to the dedication?

DUNLAP In, which John points out, does not help the applicant if we delay the zoning.

SMYTHE Neil just informs me that he has the dedication signed already.

DUNLAP The applicant has signed the dedication?

SMYTHE Yes, apparently, so what you have in front of you has been agreed upon by the applicant. I have not represented the applicant on this particular case.

DUNLAP You represented him on the zoning application but not the dedication request?

SMYTHE Correct. If you want to defer for two weeks...

DUNLAP If he signed it that answers most of the questions.

MOTION: To allow the City of Wichita to steal this land and the dedicated right-of-way that goes with it and the access control at the corner of Central and Gilda.

MARNELL moved, BISHOP seconded the motion

SCHLEGEL The question that I have for the Commission, is that how you want your recommendation to appear on the report that we will prepare for the City Council? I understand the statement that you are making Commissioner Marnell.

MARNELL Sure, I have not been fired before. I think when people take property and don't pay for it when they have the ability to pay for it and they are using extortion for the process, it is not right. I know that is my opinion and there are others that have different opinions, but to me private property rights are pretty important in this country.

MCKAY I do not know why we are hearing this? The applicant has agreed to it, signed the papers and everything else. Why couldn't we have done it in one motion instead of going through this public hearing and discussing it for fifteen minutes and then staff saying he has already signed the papers.

SCHLEGEL It could have been handled as a consent item, however one of the Commissioners requested that it be heard by the MAPC.

MCKAY All I am saying is that since Neil made his presentation we have discussed this for 10-15 minutes. All Neil had to say was that the applicant already signed the papers. We didn't hear that testimony until the applicant's representative got up and said I have been talking to Neil and Neil said the guy has already signed the papers for the dedication.

JOHNSON That is why I don't like the motion, because the owner has already signed the dedication paper and given up on his own. If we are going to review every one of these Subdivision Items then let's not have Subdivision Committee no more.

WARNER I will second that comment.

DUNLAP Any other discussion on the motion? We will ask for a vote then. We better have a show of hands on the Commissioners opposed.

WARNER If the motion is defeated can another motion be made to approve it? Or does it go to the City Council as not accepted?

SCHLEGEL You can make another motion

MARNELL We can make substitute motion.

DUNLAP Well, we are halfway through the vote right now.

MOTION carried 8-4. (DOWNING, JOHNSON, HILLMAN, WARNER opposed)

JOHNSON I want the record to show that I was in support of it being approved, but I don't like the statement or how the motion was worded and that is why I am voting in opposition.

3-5. **DED 2005-25: Dedication of Access Control and DED 2005-26: Dedication of Street Right-of- Way,** for property located south of Central and west of Tracy.

APPLICANT: Fred Jelich and Kurt Fowler, FJKF Properties, LLC, 4411 W. Central, Wichita, KS 67212

AGENT/SURVEYOR: N/A

LEGAL DESCRIPTION: **A)** The west ¼ of Lot 1, Block 3; and **B)** The north ten feet of the west ¼ of Lot 1, Block 3, Parkwilde Addition, Wichita, Sedgwick County, Kansas.

PURPOSE OF DEDICATION: **A)** Complete access control along Central Avenue; and **B)** An additional ten feet of street right-of-way along Central Avenue. Both Dedications are requirements of a zoning case (ZON 2004-53).

STAFF RECOMMENDATION: Accept the Dedications.

MARNELL I wanted this pulled but it is probably the same issue.

JOHNSON Has the applicant signed the dedication papers on this one?

STRAHL We have the signed paperwork.

MARNELL moved, **WARNER** seconded the motion.

MILLER Just as a point of order, we would not bring these to you if they were not completed applications. This is not something that staff dreams up, and says we are going to take it to you and we hope that you will approve it. If they don't sign it we won't bring it.

DUNLAP That is a good point.

MITCHELL Those signatures are not always voluntary. They are a condition of what the applicant had a right to ask for.

MILLER That is true, and if they don't want to do it they don't have to sign them, but as staff we have to bring you completed applications.

JOHNSON But in most cases it is heard in front of the Subdivision Committee, and most of the applications are heard and the applicant, agent or nobody is there and it just goes through. My opinion is that if they had something to share that would have made it to that meeting.

HENTZEN I want to say that if we are going to have Subdivision Committee meetings, I think MAPC should consider the recommendations from the Committee and not hear every one of these cases at the MAPC meetings.

MARNELL I agree fully but this is one case that I remember coming through and my curiosity was why we are having it back Commissioner Hentzen.

HENTZEN I appreciate you comments Commissioner Marnell about the rights of property owners that we call it "legal plunder" instead of "stealing".

MOTION carried 12-0.

❖ **PUBLIC HEARINGS – VACATION ITEM**

4-1. VAC 2005-30: Request to Vacate a Portion of a Platted Residential Street Right-of-Way.

<u>APPLICANT:</u>	JC Land Development, Inc
<u>AGENT:</u>	Certified Engineering Design c/o Harlan Foraker
<u>LEGAL DESCRIPTION:</u>	Generally described as a 12-foot (x) 20-foot portion located in the middle of the Prairie Street ROW and 50-feet west of the 135 th Street West's curb (west side of curb)
<u>LOCATION:</u>	Generally located midway between 79 th Street South & 87 th Street South, on the west side of 135 th Street west, at the Prairie Grass Street – 135 th Street West intersection. Unincorporated Sedgwick County, BoCC District #3
<u>REASON FOR REQUEST:</u>	Create a reserve for an existing monument sign
<u>CURRENT ZONING:</u>	Subject property is Public ROW. All abutting and adjacent properties are zoned "RR" Rural Residential

The applicant proposes vacating the previously described portion of the Prairie Grass Street public ROW to remove an existing monument sign (see exhibits) from the ROW. The applicant proposes to dedicate a reserve for the existing sign. There are no utilities located in the portion of the proposed vacated ROW. Prairie Grass Street was dedicated on the Prairie Meadows Estates Addition, which was recorded with the Register of Deeds September 1, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the Prairie Grass Street ROW, as described with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time August 4, 2005, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described portion of Prairie Street public ROW, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of Prairie Grass Street as described in the petition should be approved subject to the following conditions:
- (1) Send Staff a metes and bounds description, as approved by the County Engineer, of the vacated portion of the ROW, via e-mail on a word document.
 - (2) Provide Staff with a dedication for a reserve that will cover the vacated portion of ROW, where the monument sign is located. The reserve shall declare that a homeowners association shall be responsible for the maintenance and repair of the reserve and that its use shall be limited to the existing monument sign. The reserve shall also declare that the County, or any local governing body shall not be responsible for any repair, maintenance or replacement of the reserve and the monument sign, due to repair or maintenance to the abutting and adjacent public right-of-ways, utilities or drainage. It shall also declare that franchised utilities shall not be responsible for any repair, maintenance or replacement of the reserve and the monument sign, due to repair or maintenance of their abutting or adjacent utilities. The dedication of the reserve will go with the vacation order to the BoCC for final action and subsequent recording with the Register of Deeds.
 - (3) Provide Staff with an accurate revised exhibit for the case files.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (5) All improvements shall be according to County Standards.
 - (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Send Staff a metes and bounds description, as approved by the County Engineer, of the vacated portion of the ROW, via e-mail on a word document.
- (2) Provide Staff with a dedication for a reserve that will cover the vacated portion of ROW, where the monument sign is located. The reserve shall declare that a homeowners association shall be responsible for the maintenance and repair of the reserve and that its use shall be limited to the existing monument sign. The reserve shall also declare that the County, or any local governing body shall not be responsible for any repair, maintenance or replacement of the reserve and the monument sign, due to repair or maintenance to the abutting and adjacent public right-of-ways, utilities or drainage. It shall also declare that franchised utilities shall not be responsible for any repair, maintenance or replacement of the reserve and the monument sign, due to repair or maintenance of their abutting or adjacent utilities. The dedication of the reserve will go with the vacation order to the BoCC for final action and subsequent recording with the Register of Deeds.
- (3) Provide Staff with an accurate revised exhibit for the case files.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (5) All improvements shall be according to County Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve.

DUNLAP moved, **WARNER** seconded the motion, and it carried (12-0).

5. **Case No.: ZON2005-16** – Evelyn Nicholson (applicant); Baughman Company, PA, c/o Terry Smythe (agent) Request Sedgwick County Zone change from “RR” Rural Residential to “LC” Limited Commercial and “OW” Office Warehouse on property described as;

The East Half of the Southeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas except the North 70 acres thereof and except parts taken for road on the East and the South. Generally located North of 53rd Street North and west of Ridge Road.

MAPC Denied request on June 23, 2005
BOCC returned request to MAPC on July 27, 2005

BACKGROUND: The applicant requests “LI” Limited Industrial zoning on an 8.1-acre unplatted site, currently zoned “RR” Rural Residential, for speculative future industrial use. The application area is north of 53rd Street North and west of Ridge Road, and is developed with a single-family residence. This request for LI zoning would create a non-conforming use of the existing residence, as residential uses are not permitted in LI zoning. The site is within the Maize Area of Influence; therefore this request will go before the Maize Planning Commission.

North of the application area is an RR zoned large lot used for a single-family house (approximately 100 feet north of the application area) along with a large pond. The site had Conditional Use CU343 for sand extraction, which was granted in 1991, and expired in 1996. South of the application area, across 53rd Street North are RR zoned single-family residences and a farmstead. East of the application area is an RR zoned farmstead at the northeast corner of Ridge and 53rd North, LC zoned vacant land southeast of the corner, and SF-20 zoned single-family residences surrounding the LC corner. Immediately west of the application area is an LC zoned vehicle repair shop, rezoned in 2004 with a Protective Overlay that limits uses to those in the GO zone and limited vehicle repair, requires hazardous spill protection, and requires screening. Further west and northwest of the site are LI and GO zoned properties with a City of Maize Transportation facility, and an engineering industrial use.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: “RR”	Single-family residential
SOUTH: “RR”	Single-family residential, farmstead
EAST: “RR”, “LC”, “SF-20”	Single-family residential, farmstead, vacant
WEST: “LC”	Vehicle repair, transportation facility, engineering industrial use

PUBLIC SERVICES: Both Ridge Road and 53rd Street North are paved arterials at this location; both have a 60-foot half-width right of way (ROW) at the site that tapers to 75 feet at the intersection. Current traffic counts on this portion of 53rd Street North are 3,203 vehicles per day, and 3,906 on this portion of Ridge. The 2030 Transportation Plan designates that both of these streets remain two-lane arterials, and no future projects are planned for this area.

Municipal water and sanitary sewer service are not available to the site; therefore, on-site water and sanitary sewer service would need to be provided. The property is located within the Equus Beds Groundwater Management District in area where ground water is likely to be within 10 feet of the ground surface.

CONFORMANCE TO PLANS/POLICIES: The “Wichita Land Use Guide, as amended 1/02” of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “rural” development, and not within the 2030 Urban Service Area. Rural areas consist of land outside the 30 year Wichita urban service area and small city growth areas. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services.

The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial sites be located in close proximity to support services and be provided good access to major arterials, city truck routes, belt highways, utility trunk lines, rail spurs, airports and as extensions of existing uses. The locational guidelines go on to recommend that industrial uses should be generally located away from existing or planned residential areas, and sited so as not to generate industrial traffic through less intensive land use areas.

The Goals, Objectives, and Strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use-Industrial section contains a strategy (IV.A2) that states, “in those portions of rural unincorporated Sedgwick County outside the projected urban growth area, allow industrial development only when it is agriculturally oriented, dependent upon a natural resource, or, as part of an appropriate expansion of an existing industrial area.” The requested zone change for unspecified industrial development is not consistent with the Land Use Guide or the Goals, Objectives, and Strategies of the Comprehensive Plan. The Amended Comprehensive Development Plan 1980-2000 for the City of Maize does not address the subject property. The City of Maize currently is making major revisions to its comprehensive plan, and those revisions may address the subject property in the future.

The Unified Zoning Code (UZC) would require a 25-foot compatibility setback between non-residential and residential development, and would require screening between non-residential and residential development. The Sedgwick County Access Management Policy would limit the number of access points and their spacing along 53rd Street North and Ridge. And, the County Sign Code would limit signage for development at this site.

RECOMMENDATION: The proposed change is in not in conformance with the MAPC Comprehensive Plan and the area is not included in the adopted Maize Comprehensive Plan. The proposed zone change would create a non-conforming use of the existing single-family home. The unspecified future industrial use proposed for this site could be incompatible with the existing single-family

home 100 feet north of this site. The lack of public infrastructure at the site is problematic for industrial development. Also, the lack of public water and sewer to this site are of particular concern because of the site location within the Equus Beds Groundwater Management District. An unspecified industrial use at this location could involve hazardous materials, and any size of potential spill into the groundwater could result in contamination.

The LC zoning west of the site was approved in 2004, and rectified an unpermitted use. This LC zoning is under a restrictive protective overlay. The LI zoning also to the west houses primarily storage uses, and was permitted with GO zoning fronting 53rd Street North. This industrial zoning was approved in 1984 to rectify an existing non-conforming use at that time.

As an arterial intersection site, this property could be appropriate for future non-residential use. The Comprehensive Plan states that commercial uses in rural areas should be agriculturally oriented or provide necessary convenience services to residents in the immediate area. Any future use of this site will require consideration of utilities and contamination protection for the Equus Beds. Because this request is speculative for industrial use, staff does not find it feasible to recommend a protective overlay, which would need to be tailored to a specific use.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposal is not consistent in terms of zoning, uses, or character with large lot suburban residential development to the north, south and east. Most surrounding land is zoned "RR" Rural Residential and is used for agriculture or large lot residential uses. The area abutting to the west is zoned "LI" Limited Industrial and "LC" Limited Commercial, and is used for an office and the Maize school bus storage facility, and a limited vehicle repair shop with a protective overlay.
2. The suitability of the subject property for the uses to which it has been restricted: The property has been developed with a single-family use as currently zoned. The site is suitable for Rural Residential use, as it is currently zoned. The requested LI zoning would create a non-conforming use of the existing home, as residences are not permitted in industrial zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: LI zoning at this location could allow uses which would be incompatible with the single-family home 100 feet north of the site, and would be incompatible with the residences south and east of the site, across 53rd North and Ridge. Negative effects on these residences from uses permitted in the LI zone could include large truck traffic, manufacturing noise, odors, vibrations, industrial buildings, outdoor storage, and dust. Uses in the LI zone could be significantly more intense than the existing bus storage and limited vehicle repair to the west of this site. Any possible contamination of groundwater at this location would be dangerous and damaging to all surrounding landowners, and the greater community.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "rural" development, and not within the 2030 Urban Service Area, which is not in conformance with requested zoning. The Industrial Locational Guidelines of the Comprehensive Plan recommend access to support services, and separation from residential use, which this site does not have. Likewise, the request is not in conformance with the strategy guidelines of the Comprehensive Plan. The City of Maize Comprehensive Plan does not address this site.
5. Impact of the proposed development on community facilities: The requested zone change would introduce an unknown industrial land use to an area lacking appropriate community facilities. Fire and crime protection services cannot be adequately provided to an industrial use at this remote location. On-site water and sanitary sewer service for an industrial use at this location would lead to a significant potential for groundwater pollution as the site is located within the Equus Beds Groundwater Management District, in a area where ground water is likely to be within 10 feet of the ground surface.

TERRY SMYTHE BAUGHMAN Paul Kelsey the owner of the property is here today as well. This item was returned by the BOCC, and I am going to read from their minutes, Commissioner Burnett said, "Just looking at how things have gone in this particular issue, I would feel more comfortable if we could send it back to MAPC and have them vote on it again with the full Board. Like I say, I have been going to some of these meetings, and I don't think this is a big deal or big problem as it appears to be, but I would feel more comfortable sending it back to MAPC for them to approve for their consideration."

In May 2005, this Planning Commission asked us to negotiate with planning staff and reduce our request from "LI" Limited Industrial zoning. We returned a month later with the current request of "LC" Limited Commercial zoning along the east part of the property, and "OW" Office Warehouse uses near the existing "LI" Limited Industrial adjacent to our west property line. After we negotiated and reduced our request, Planning staff still opposes this revised request, apparently because it is not in the current 2005 Urban Service Area boundaries for the City of Wichita. I think when I was here the last time I passed out this map describing that area.

As most of you are aware, this location is within 1 mile of the City Limits of Maize, within 1 1/2 mile of the City Limits of the City of Wichita, within 3 miles of the City Limits of Valley Center. The Brooks Landfill project property, the location of the proposed North End Sewer Plant is located approximately 1.5 miles south and east of this property. All of these to me indicate that this is not a rural situation.

It is outside of the 2030 service boundaries, and according to this functional land use guide it is rural. I am going to respectfully disagree with that. If you look at other locations on this map, and it is kind of this orange crossed area, they are indicating that there will be services out in these areas sooner than the services are going to be up here, which is our location. I am thinking the Comprehensive Plan needs to be revised in this area. Because it is considered to be a rural situation, this is a Sedgwick County zoning case, this Board represents the City of Wichita, and Sedgwick County both, and because this is a Sedgwick County zoning case, we intend to utilize Sedgwick County water and sewer systems. We agree to connect to city services from whichever city gets there first, again, City of Maize, City of Wichita, or Valley Center.

From investigating this property through the City of Maize, I think I have come to the conclusion that the limit line that you have along 53rd Street North for about two miles is caused by a lack of an agreement, as to who could annex what property. If you all recall when the City of Maize and the City of Wichita were arguing over an annexation down around Maize Road, they came to an agreement that specified a line a 1/2 mile from our site, everything north of 53rd Street there could not be an agreement as to who should annex that property. In light of looking at this plan and seeing where all the other orange crossed hatched areas indicate 2030 services, I think that piece of property has been left out because of a political decision because nobody knows who is going to get that piece of property.

Again that is why we filed it as a Sedgwick County zoning case, it is in the county, there are county approved health systems, water, etc.

TAPE CHANGE TAPE 1 SIDE B

If you look at the 2030 Transportation Plan, by 2030 they are predicting a four-lane road up to the 53rd Street intersection. Granted we are 30 feet north of that intersection. We are on the other side of it, but the 2030 Transportation Plan will tell you that there is going to be a lot of activity up Ridge Road. At the last meeting of the MAPC, I indicated to you that there are a number of major landowners acquiring property up Ridge Road to develop, and it still goes on today. It is my contention that this is easily within the 2030 service area for the City of Wichita, the City of Maize, or the City of Valley Center. Services will be up there before that time. It is hard for me to believe that the City of Wichita would do a North End Sewer Study, come to the conclusion that it is going to be on their Brooks Landfill site 1 1/2 mile from this piece of property, and not envision within a certain period of time land development to cause justification of that plant to come online.

I believe that this request is compatible to the surrounding zoning that has been granted in this area. Just look at the map and it will indicate it to you. Is this request a normal development pattern that occurs on corners? Again, I think the answer is yes. Given the existing "LI" Limited Industrial, "LC" Limited Commercial and "OW" Office Warehouse zoning in this area, is this zoning request reasonable? Again, I think the answer is yes. This area is heavily trafficked paved roads on both Ridge Road as well as 53rd Street. There are a lot of sandpit operations, a lot of housing starting to open up around these sandpits. This is in my opinion, this is an urbanized area that will be urbanized much sooner than much of the orange on this particular map.

I would like to recommend that we make a recommendation that this 2030 Comprehensive Plan look at this area a little more specifically in light of what the Water & Sewer Department envisions occurring along the Ridge Road corridor. Please don't let this arbitrary line that I think exists between the City of Wichita, the City of Maize, and the City of Valley Center, to get in the way of proper zoning. I think this request with "LC" Limited Commercial on the corner, and "OW" Office Warehouse towards the west side near the "LI" Limited Industrial zoning; I believe it is compatible and I think it is responsible.

HILLMAN Have we determined the use for the "LC" Limited Commercial on the corner?

SMYTHE No, in requesting zoning districts that exactly is what we do; we request a specific district and the uses that are allowed in that zoning district. We have asked for "LC" Limited Commercial zoning given the size of this property. You are talking about small pad sites. It is not big enough for a Dillon's. It is probably big enough for a Q-Trip, Phillips 66 and those kinds of uses.

HILLMAN Last time I understood that you weren't necessarily interested in hooking up to sewer service when it arrived.

SMYTHE We would love to have it up there today.

MCKAY The Comprehensive Plan and the 2030 Transportation Plan, they adjust yearly based on growth. This is in the Maize area of influence. When we went through the zoning, and we went through the area of each little town wanted to have their zoning, or their city limits, if I remember right, Maize was coming down 53rd Street, were they not?

DUNLAP Yes.

MCKAY But I don't know how far east they went. As far as Valley Center they will not put in sewer because they will have to go across the river.

DUNLAP I think you are probably right.

MCKAY What does the City of Maize think being that it is their area of influence?

DUNLAP They voted to approve. Do not put in stock in annexation agreements. Annexation agreements between councils cannot stand for the following council. Second, and a change since the last time we heard this was something pretty major, and the applicant wasn't here to hear it. We had a presentation by the City of Wichita on the CIP. They very specifically said that they are going to take sewer soon up the west side all the way up 53rd Street. That changed the picture for me quite a bit, because they are going to do it, it is in the CIP and the plan is that it is going to happen. There isn't any question that this intersection is a major intersection.

ALDRICH Back when we heard this on June 23rd, I was one of the Commissioners that voted to deny, but since then I have found that there are more stringent requirements for businesses that I was not aware of, pertaining to the water and the sewer supply, and I do not feel that there will be any damage to the aquifer.

MOTION: To approve the applicant's request.

ALDRICH moved, **HENTZEN** seconded.

SUBSTITUTE MOTION: To deny based on the findings put forward by staff because this is not in conformance with the Comprehensive Plan.

BISHOP moved, **BARFIELD** seconded.

BISHOP The Comprehensive Plan is so loose as to be almost negligible at this point and if we are not going to comply with the Comprehensive Plan now, then when are we? If this isn't an area that is not eligible for compliance with the Comprehensive Plan in terms of remaining as "RR" Rural Residential then what is? In other words, have we finally reached a point where we have faced the fact that we have urbanized our entire county?

HILLMAN I want to abstain.

DUNLAP Which as a City appointee that means that you are for the request.

VOTE ON SUBSTITUTE MOTION fails 3-9.
(MCKAY, JOHNSON, MITCHELL, MARNELL, WARNER, DUNLAP, ALDRICH, HILLMAN, HENTZEN)

MILLER Was someone abstaining on the substitute vote?

DUNLAP Yes, Commissioner Hillman abstained and as a City appointee an abstention is a "yes" vote, so he voted for the motion.

MILLER Unless he is in the notice area, and he has given you a reason he really can't abstain.

DUNLAP It counts as a "yes" vote.

VOTE OIN THE ORIGINAL MOTION carries 9-3. (BISHOP, DOWNING, BARFIELD, OPPOSED)

6. **Case No.: CON2005-32** – Hazel and Joe Humbolt (owners); Living Word Christian Church c/o Terry J. Taylor (agent) Request Sedgwick County Conditional Use for a church on property zoned "RR" Rural Residential on property described as;

That part of the Southeast Quarter of the Northeast Quarter of Section 24, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, described as:

Commencing at the Northeast corner of said Southeast Quarter of said Northeast Quarter; thence with an assumed bearing of South 88 degrees 53'20" West, on the North line of said Southeast Quarter of said Northeast Quarter, a distance of 949.72 feet to the Easterly right-of-way line of State Highway 15, as described in Sedgwick County District Court Condemnation Case 95-C-327, to the point of beginning; thence South 1 degrees 00'02" East, on said Easterly right-of-way line, a distance of 53.36 feet; thence South 35 degrees 17'54" East, on said Easterly right-of-way line, a distance of 394.56 feet; thence South 45 degrees 45'31" East, on said Easterly right-of-way line, a distance of 294.54 feet; thence South 33 degrees 07'17" East, on said Easterly right-of-way line a distance of 39.97 feet; thence South 89 degrees 59'49" East, a distance of 100.47 feet; thence Northwesterly 638.15 feet to a point 520 feet West of the Northeast corner of the Southeast Quarter of said Northeast Quarter, being a point on said North line; thence South 88 degrees 53'20" West, on said North line a distance of 429.72 feet to the point of beginning. Generally located at the southeast corner of K-15 and 97th Street South.

BACKGROUND: The applicant is requesting a Conditional Use for a church in "RR" Rural Residential zoning, within the Derby zoning area of influence. A Church or Place of Worship is a Conditional Use in the RR district. The application area is a 4.3-acre site, located south of 97th Street South and east of K-15, approximately ¼ mile south of the Derby City Limit. The site has no access to K-15, and is used as agricultural land. All surrounding property is zoned RR, and all surrounding property is used for agriculture, except for a single-family residence located approximately 40 feet east of the site.

The attached site plan indicates a 10,000 square foot initial building site, with another 15,600 square foot future expansion area. The site plan also indicates a 19,575 square foot initial parking site, and a 16,800 future parking area. The *Wichita-Sedgwick County Unified Zoning Code (UZY)* requires one parking space per four seats in a church; the applicants will be required to demonstrate that the number of seats and parking spaces meets the UZY requirements before getting a building permit from Sedgwick County.

The applicants have filed a preliminary plat with the City of Derby, the platting jurisdiction for this site. The attached letter demonstrates that this site is approved for on-site water and sewer, per Sedgwick County Code Enforcement. The letter indicates, as does the Derby Planner, that the site will be required to connect to public water and sewer when available. The Derby platting process will defer to the County Engineer to determine if this portion of 97th Street South will require paving by the applicant.

CASE HISTORY: The property has filed a preliminary plat with the City of Derby as the Humbolt Addition.

ADJACENT ZONING AND LAND USE:

NORTH: "RR"	agricultural fields
SOUTH: "RR"	agricultural fields
EAST: "RR"	single-family residence
WEST: "RR"	K-15, agricultural fields

PUBLIC SERVICES: This site is located along K-15 with no access to the highway. The property is located on 97th Street South, an unpaved two-lane local road with a 30-foot right-of-way. The preliminary plat for this site indicates a 35-foot right-of-way dedication along 97th. The attached site plan indicates a 97th Street access point 100 feet east of the west property line, approximately 235 feet from the 97th/K-15 intersection. The site is within Rural Water District #1, however, no public water or sewer is available to the site at this time.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural." The site is located ¼ mile from the existing Derby City limit and ¼ mile south of the Derby 2030 Growth Area.

The UZC will require impervious surfaces for parking, will require screening from the residential use to the east, and will require a 25-foot compatibility setback from the residential property to the east. The Derby Zoning Ordinance would also require an impervious parking surface, setbacks, screening, and would require a landscape plan.

RECOMMENDATION: Planning staff finds that the application meets the requirements of the Unified Zoning Code. Because this site is ¼ mile from the City of Derby, and under Derby subdivision jurisdiction, staff recommends that this Conditional Use recognize Derby standards to avoid creating future non-conformities. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. The Conditional Use shall be subject to all requirements of the Unified Zoning Code and the City of Derby Subdivision Regulations.
3. Development and maintenance of the site shall be in conformance with the approved site plan.
4. Pole lighting shall be no taller than 15-feet in height and shall be directed onto the church property and away from the adjacent properties.
5. The applicants shall provide a guarantee to the City of Derby requiring connection to water and sewer when these services become available.
6. Prior to being issued a building permit, the applicants shall have a landscape plan approved by the Derby Planning Director, meeting the City of Derby Landscape Regulations.
7. Signage shall be one monument type sign, per the Sedgwick County Sign Code.
8. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned RR and used for agricultural purposes or single-family residences. The site has frontage along K-15, and the requested Conditional Use is not out of character with the area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could continue to be used without the Conditional Use. However, with frontage along K-15, this site may not be desirable for single-family residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed church could have negative affects upon the residence to the east through increased traffic on 97th Street South, noise, and light. These issues should be mitigated through the requirements of the *Unified Zoning Code* for screening and compatibility setbacks, recommended landscaping in accordance with the City of Derby standards, and recommended light pole height restrictions.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in conformance with the *Wichita-Sedgwick County Comprehensive Plan* and the *Wichita-Sedgwick County Unified Zoning Code*.
5. Impact of the proposed development on community facilities: This portion of 97th Street South will have increased traffic from the proposed church. The City of Derby Subdivision Regulations require right-of-way dedication, and will determine if paving this portion of 97th is required.

DOWNING I have had some ex parte communication but nothing that would preclude me from making a decision today.

MCNEELY The applicant's are renting space for their church in Mulvane, and would like to request a change in the condition of approval #8 as recommended by staff to the following, "If operations have not begun within three years of approval".

DUNLAP Are they the owners, contract purchases, or lessees?

MCNEELY The owners, I show as Hazel and Joe Humbolt, and then the agent as being representative from the church, they are here today.

ALDRICH At the end of one year, they can request an extension for six months correct?

MCNEELY I believe with a Conditional Use if they have not acted within one year...we haven't dealt with that, we deal with that in platting quite a bit.

SCHLEGEL Dale, can you help out with that question?

MCNEELY Donna is saying that we can't extend the Conditional Use.

GOLTRY Not usually, but we do extend platting deadlines, the first platting deadline administratively is normally done as an administrative procedure subsequently has to go before the Governing Body for approval. Normally we don't extend the Conditional use per say we set a limited time on these.

ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR I agree there is specific authority in the platting sphere to have an administrative six month extension, but that doesn't apply here for the Conditional Use. I assume you could put that into the Conditional Use.

GOLTRY You could build that into the Conditional Use as a "Condition of Approval".

GARY TIBBETTS, 7126 E 63rd STREET SOUTH, DERBY KS 67037 Actually there are two things we have a question about Condition Item #7, and Condition Item #8. Item #7 along K-15 the frontage is like 8-900 feet there, and because of the speed the traffic goes along K-15 we would like to put a monument sign on each of the corners facing one kind of south and one kind of north.

As far as Condition #8, and the operations not begun within one year of approval. We are currently in a lease in a building and it is a two-year lease, so even if we built a building we would have to pay out the lease or have two places, so we would like an extension on that. We said three years because right now, I am not sure if our minister who is here today can speak on our actual membership, but we are getting around 40 people per week attending, and obviously finances are questionable right now. So for cost reasons we may need to extend our lease as opposed to going ahead and building our building and getting there.

My understanding is the reason for the time limit is basically of preventing speculation on property. In this case it remains "RR" Rural Residential. It can only be used for a church, and because of the location I don't see that speculation is a big issue here. To us it is a consideration that we wanted to make sure that we could get a Conditional Use, and the platting before we purchased the land. The owner is here, and he is anxious to sell so that is why we went ahead and applied for everything before we actually bought the property, because we didn't want to buy a piece of land that we could not build a church on. Right now our plans are up in the air as to what we will actually build. The diagram of the plat, the site plan that we submitted showed a 10,000-foot footprint for a building. We don't anticipate building more than a 5,000 square foot building initially, but again we haven't gotten with an architect, and actually discussed the site, but that is why we have requested a larger area. But, we don't anticipate being a large church, our charter of the church is really not grown over 300 and then break off a new church somewhere and we want to remain small.

MITCHELL Do you have access only to 93rd Street?

TIBBETTS Yes, there is no access to K-15.

MITCHELL Is it improved to the point where an increase in traffic because of the church would be a burden to some agency?

TIBBETTS At the present time it is concrete part way up toward almost to the corner of the property, and then it is just dirt road after that. It is two-lane, and I would assume that it is maintained by a township. We would anticipate one drive initially as close to the corner as we can get it so that it does not impact on the street. Right now our membership is low, and even at the maximum we are not anticipating even a 100 cars on a Sunday.

MITCHELL I would assume this would come back as a plat at which time that access would be determined?

TIBBETTS It is being platted through Derby, and their recommendation from the Derby Planning Commission was that Derby would make those decisions. We are dedicating a half-street right-of-way. The road that is there is completely on the north side of the quarter section line, so we have dedicated so many feet on the south side of that so that it will split the line but right now the existing road is on the north side.

MCKAY Is there a reason why you wanted to go for the Conditional Use rather than just rezone it so that you can put a church in there?

TIBBETTS In talking with the staff...

MCKAY Which staff?

TIBBETTS The MAPD staff. They said there was really no difference in the use of the two and they thought the Conditional Use would be easier so that is the way that we went.

DUNLAP If the Conditional Use is not approved, you will not buy the property?

TIBBETTS That is correct. Our sole purpose is to put in a church, and if we can't get a church there we could try the avenue of going for a zoning for a church zoning, I am not sure what that is out in the county. What we did was come in and ask what zoning we needed to have in order to have a church, and they said we could go either direction and this is the way that we went.

HENTZEN Can you estimate from K-15 where you would want your driveway, approximately how many feet?

TIBBETTS Right now the corner of the property line is approximately 235 feet from that intersection, and that is the corner. We show another 100 feet. The City has asked on platting for 100 feet of access control. We are going to ask them to reduce that because we are such a long distance from K-15, and although it doesn't show on the map or the picture, from the highway to the fence line is a considerable rise and it is doubtful that K-15 would ever expand over that entire area. So if we give up maybe a 50-foot access control, it would get us closer to the corner, a little less road that we would have to worry about and would still leave us 280 feet from the intersection.

DAVID BURKE, 127 Lockridge, Mulvane, KS 67110 I am the minister of the congregation, and we just celebrated our two-year anniversary. We don't anticipate fast growth, and we don't anticipate a building immediately and that is why we are asking for time. We moved out of the Mulvane High School commons where we had been meeting into this leased building and have a two-year lease. The approval of the Conditional Use was part of our conditions for purchasing this land from Mr. Humbolt, and so that is why we are asking for an extension on that time because we don't anticipate being in a financial condition to start building within the next two years, and so that is why we did ask for three years and we don't think that is unreasonable. We have a large percentage of the money saved up to buy this land and we do have a source that will finance the remaining amount.

MCKAY moved, **ALDRICH** seconded the motion, subject to staff comments with the exception on where it says Approved, subject to platting within one year, and also down in Condition of Approval #8 one year of approval, that we change that to that we change it to three years.

MCNEELY I would point out on platting that this is in Derby's platting jurisdiction so this is not a plat that will come through this body.

MCKAY He was asking this body for that variance in the time change and that is why I am saying that.

BISHOP Do we have the option to revise Condition of Approval #7 and allow for two monument signs and see if the motion maker will consider that.

MCKAY Sure.

MCNEELY They can have two monument signs given their frontage on K-15 but by the Sedgwick County Sign Ordinance they are only going to have (x) number of square feet allowable based on that frontage down between the two signs.

MCKAY Do you want me to put that in or out?

BISHOP Is that something that can be addressed at platting?

MCNEELY No, that would be a Conditional Use issue.

AMENDED MOTION:

MCKAY moved, **ALDRICH** seconded the motion, subject to staff comments with the exception on where it says Approved, subject to platting within one year, and also down in Condition of Approval #8 one year of approval, that we change that to that we change it to three years. Also that they be allowed to put two monument signs as long as they stay within the Sedgwick County Sign Ordinance and Requirement for total square footage.

MOTION CARRIED 12-0.

7. **Case No.: PUD2005-03** – City of Wichita, Property Management (John Philbrick) / Gossen Livingston Associates, Inc. (Mac McKee) Request The creation of the WaterWalk Planned Unit Development on property described as;

Property located within the following boundaries: South of Lewis Street/Waterman Street; West of Main Street; North of U.S. Highway 54/Kellogg; and East of the Arkansas River. Generally located South of Lewis Street/Waterman Street, west of Main Street, north of US Highway 54/Kellogg and east of the Arkansas River (includes the boathouse)

BACKGROUND: The applicants are seeking the creation of the WaterWalk Panned Unit Development district (PUD2005-00003) intended to promote the re-development of 29 acres located south of Waterman/Lewis streets, west of Main Street, north of Kellogg and east of the Arkansas River. The site was originally developed under multiple private ownerships beginning early in this community's history. The Central Business District, Limited Industrial and General Commercial zoning that was established for this area allowed a wide variety of urban land uses to be developed. Over time many of those uses and the buildings housing those uses became economically marginal, resulting in lower levels of maintenance and re-investment.

In 1989, the community adopted the *Development Plan for Downtown Wichita*, a downtown master plan that envisioned the revitalization and/or redevelopment of the City's core area, including the application area. To implement the downtown development plan, the City instituted the "core area initiative," and gained control of the application area, cleared the site and entered into a public-private partnership agreement with the WaterWalk developers so the site could be rebuilt into a mixed-use development. Under the terms of the developer's agreement, the City is to retain ownership of the land and provide certain public improvements, such as streets and utilities, while the developer is to attract new tenants and construct the private improvements called for in the developer's agreement. It is anticipated that, when completed, the project will provide a unified built environment that will offer opportunities for high quality residential and employment opportunities as well as new destination shopping and entertainment venues.

The PUD design statement includes development standards dealing with: land use, architectural controls, screening, signage, access control and parking. The applicant proposes to use the CBD Central Business District development standards except where modified by the proposed PUD development standards. (The CBD District does not have any minimum standards for: lot width, front, rear or street side setbacks, or building height. Minimum interior side yard setbacks can also be zero feet, but if a setback is provided it must be at least five feet.)

For specific land use controls within the PUD, see Section III, first sentence of the Design Statement, and Sections III-11 and 12. The first sentence of Section III indicates that CBD development standards will be used in the absence of specific standards contained in the PUD. Section III-11 states that minimum lot area; lot width and maximum building height standards are per CBD district standards. Section III-12 lists approximately 42 land uses that are prohibited, such as: general manufacturing, outdoor storage, warehousing, adult entertainment and animal care, general.

Section III-8 deals with architectural controls, which apply to all parcels except Parcel 2. Parcel 2 is exempt from the controls since it is already developed with a building exhibiting an architectural style that the rest of the development most likely will not want to replicate. The proposed architectural controls require buildings to share similar architectural design with respect to materials, colors and roofing materials. The proposal also requires facades facing a street to have some form of architectural feature such as columns, pilaster, windows or changes in plane that eliminates extensive blank walls.

Section III-7 requires roof mounted heating, air conditioning and mechanical equipment located within 150 feet of residential zoning or public right-of-way to be screened.

Section III-9 deals with signage. The proposed PUD states that CBD sign code requirements are to define signage standards unless modified by the PUD. The PUD allows a project title sign at Main and Waterman streets that is 35 feet high, and up to 460 square feet in area. Additional project title and directory signs located on Main, near Dewey, and at Lewis near Wichita Street, 16 feet tall, and up to 120 square feet would be permitted. Ground mounted directional signs would also be permitted, up to seven feet tall and up to 20 square feet in area. Individual businesses would be allowed ground-mounted signage up to 100 square feet in area, and up to 12 feet in height. Total ground signage area for any street frontage shall not exceed .8 times the frontage, and ground signage may be spaced within 60 feet of another ground sign. No off-site, portable or billboard signs are permitted, however, electronic message boards promoting events or businesses located within the project will be allowed. These signs may be roof mounted, and will require administrative review and approval.

Section III-15 deals with parking. Parking is to be jointly provided by the developer and the city. The minimum number of spaces required is to be established at the time each use or building is established.

The submitted site plan proposes three parcels. Parcel One is the Gander Mountain site located north of Kellogg, between the Arkansas River and realigned Wichita Street. Gander Mountain has a building footprint of 113,764 square feet. A second building with approximately 16,995 square feet is also anticipated on Parcel One. Parcel One also provides for outdoor display of merchandise offered for sale by Parcel 1 tenants.

Parcel Two is the existing "Boathouse" located south of Lewis Street, between the river and Wichita Street. Since parking is to be jointly provided by the developer and the city, the Boathouse is included in the PUD to ensure that adequate parking will be available when the boathouse reopens.

Parcel Three is comprised of five blocks located south of Waterman Street, between Wichita and Main streets. Two of the blocks, located south of Dewey Street and east of Wichita have been developed with parking structures. The remaining parcels are currently vacant.

The Design Statement does not contain language dealing with kiosks. The applicant would like to be able to locate kiosks at various locations within the development. Recommended language addressing this issue is: "Kiosks may be located in public right-of-way after obtaining a minor street permit and with the approval of the Superintendent of Central Inspection and the City Engineer."

CASE HISTORY: The area was zoned, platted and developed early in the community's history. A preliminary plat, the WaterWalk Addition, encompassing the entire site was filed in March 2005. MAPC approved a partial final plat, WaterWalk Phase I Addition that includes only Parcels 1, 3 and 4 of the PUD on April 14, 2005.

ADJACENT ZONING AND LAND USE:

NORTH: CBD Central Business District; vacant, hotel, convention center
SOUTH: LI Limited Industrial, GC General Commercial, LC Limited Commercial; parking
EAST: CBD Central Business District; office and commercial service businesses
WEST: CBD Central Business District; Arkansas River

PUBLIC SERVICES: Public services are in place or are scheduled to serve the proposed project.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this site as appropriate for "downtown regional center." This area encompasses the central business district area of Wichita that is intended to serve as a residential, employment, entertainment, cultural and government center for the City.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to completing the plat within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding land is zoned Central Business District, General Commercial and Limited Commercial. Surrounding land uses are primarily commercial – hotel, convention center, public parking, offices – except for the Arkansas River corridor located to the west. Much of the surrounding area has, within the last few years, been redeveloped (Hyatt Hotel and river corridor improvements, the Boathouse), or is experiencing redevelopment pressures (proposed downtown arena district and BG Products expansion rezoning).
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned CBD Central Business District, LI Limited Industrial and GC General Commercial. These three zoning districts allow a wide range of uses, but since this is a public-private partnership it will facilitate redevelopment efforts to have the entire site under a single set of development standards. If approved, the developer and prospective businesses can be assured of a uniform set of regulations with respect to land uses, setbacks and architectural styles.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will not detrimentally affect nearby properties as the proposed restrictions actually limit the range of allowed uses when compared to nearby properties, and establish a minimum set of architectural requirements not required of adjoining properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval will assist with the implementation of the community's desire to improve the downtown core area and stimulate the community's economic situation by encouraging new construction and improved public services.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request is consistent with adopted plans in that the *2030 Wichita Functional Land Use Guide* depicts this site as appropriate for "downtown regional center." This area encompasses the central business district area of Wichita that is intended to serve as a residential, employment, entertainment, cultural and government center for the City.
6. Impact of the proposed development on community facilities: The project will increase traffic volumes over previous levels, however, existing or planned improvements will be adequate to meet expected needs.

ANDREW BRAUN, Representative of the Hospitality Real Estate Corp, 435 S. Broadway, Wichita, KS 67202 Does the proposal for the development have any potential of an adverse affect on the surround property owners' property values at all?

MILLER The fact that this is going to be all new construction; this will be an improvement to the way the area was, it should enhance surrounding property values to the extent that somebody else's property can help somebody else's.

DUNLAP I don't know that we can answer his question specifically because you are asking for an opinion on some future development, and although some of us do hold a real estate license it is not something that we can offer you a solid opinion on. I would agree with Dale's assessment that it will probably improve the neighborhood in general.

BISHOP From experience look at what happened with Bradley Fair, it enhanced the commercial development all the way around that.

MCKAY Which property do you represent?

BRAUN It is the old Junior Achievement Building, the Martens Company and the American Cancer Society are currently in there.

BISHOP moved, **BARFIELD** seconded the motion, to approve subject to staff recommendations and conditions, and it carried 12-0.

8. Other matters/adjournment.

DUNLAP The next Planning Commission will be September 22, 2005.

The Metropolitan Area Planning Department informally adjourned at 3:15 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan

Area Planning Commission

(SEAL)